

T-661 P.002 F-262

JAN 03 2011

Confirmation No. 4872 OFFICE OF PETITIONS

CERTIFICATION OF
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12/21/2010
Date

Calista J. Mitchell
Registration No. 63,944
Attorney for Applicant(s)

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

**PETITION UNDER 37 C.F.R. § 1.377 TO REVIEW DECISION REFUSING TO
ACCEPT AND RECORD PAYMENT OF A MAINTENANCE FEE FILED PRIOR TO
EXPIRATION OF A PATENT**

Sir:

The patentee hereby respectfully petitions under 37 C.F.R. § 1.377 to review the decision refusing to accept and record payment of the 11.5 year maintenance fee that was submitted on January 14, 2010.

The PTO "Consolidated Informality Notice For Patent Maintenance Fees" dated January 25, 2010 (Exhibit A) indicates that the 11.5 year maintenance fee for RE37,784 was not accepted because RE37,784 was "expired." As will be demonstrated below, the patentee respectfully submits that RE37,784 was not expired at the time of the decision to refuse the 11.5 year maintenance fee.

12-21-2010 04:56PM FROM-

T-661 P.003/014 F-262

U.S. Patent No. RE37,784
Petition dated December 21, 2010


We received a Notice of Patent Expiration mailed August 6, 2006 that RE37,784 had expired for failure to pay the 7.5 year maintenance fee (Exhibit B). A Petition to Accept Unintentionally Delayed Payment of Maintenance Fee Under 37 C.F.R. § 1.378(c) was filed on September 22, 2006 (Exhibit C). That Petition was subsequently granted as shown in the Decision mailed on February 8, 2007 (Exhibit D). The decision stated: "The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision." (Exhibit D.)

As is evident from the documents submitted herewith, the patentee respectfully submits that RE37,784 should have been reinstated when the 7.5 year maintenance fee was accepted and the Petition to Accept Unintentionally Delayed Payment of Maintenance Fee was granted in February 2007. Accordingly, the patentee respectfully submits that the PTO's refusal to accept the 11.5 year maintenance fee paid on January 14, 2010 was in error. The patentee requests reconsideration of that decision and requests that the PTO accept the 11.5-year maintenance fee.

The Commissioner is hereby authorized to charge the 11.5-year maintenance fee under 37 C.F.R. § 1.20(g) of \$4110.00 for a large entity, the petition fee under 37 C.F.R. § 1.17(g) of \$200.00 for a large entity, and any additional fees to Deposit Account No. 06-1135.

Respectfully submitted,

Date December 21, 2010


Steven G. Parmelee
Registration No. 28,790

FITCH, EVEN, TABIN & FLANNERY
120 South LaSalle Street, Suite 1600
Chicago, Illinois 60603-3406
Telephone: (312) 577-7000
Facsimile: (312) 577-7007

575663

12-21-2010 04:56PM FROM-

T-661 P.004/014 F-262

Exhibit A

12-21-2010 04:56PM FROM-

T-661 P.005/014 F-262



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OFFICE OF PETITIONS

CPI - COMPUTER PACKAGES INCORPORATED
414 HUNGERFORD DR., SUITE 300
ROCKVILLE, MD 20850

January 25, 2010

CONSOLIDATED INFORMALITY NOTICE FOR PATENT MAINTENANCE FEES

Payment Receipt Date: 01/14/2010
(Minimum Date Stamp)

Bulk Payment Amount Received: \$ [REDACTED]

USPTO Accounting Date: 01/20/2010

Unprocessed Amount: \$ [REDACTED]

The United States Patent and Trademark Office (USPTO) acknowledges receipt of the above-identified bulk maintenance fee payment. In processing the payment, the discrepancies are noted below.

Notice of Special Acceptance Payments for the following patents had patent/application number mismatches, and were specially accepted under the patent number as shown (the corresponding application number appears in parenthesis).

[REDACTED] 08664629)	[REDACTED] 08748761)
[REDACTED] 08738159)	

Notice of Overpayment Payments for the following patents were submitted in the large entity amount, but USPTO records indicate that the patentee is a small entity. Payment was applied as a small entity and the unprocessed amount appears in parenthesis.

[REDACTED] 08738159)	

Special Acceptance of Small Entity Payments for the following patents were submitted in the small entity amount, but USPTO records indicate that the patentee is a large entity. Since a deposit account authorization to charge any deficiency was provided, payment was applied in the large entity amount and the additional amount charged to the deposit account appears in parenthesis. (If payment should be applied in the small entity amount, a refund request under 37 CFR 1.28(a) including a written assertion of entitlement to small entity status under 37 CFR 1.27(c) must be filed within three months of the payment receipt date.)

Notice of Non-Acceptance Payments for the following patents could not be accepted and the unprocessed amount appears in parenthesis (Reason codes: 1-previously paid; 2-expired; 3-paid too early; 5-reissued; 6-not specially accepted; 7-not subject to MFEE)

[REDACTED] 1 (4110) 01/08/2006 81/008410, PC 2564	[REDACTED] 1 (4110) 12/16/2009 GA/1997-053
COMPUTER PATENT ANNUITIES LIMITED - 3rd party	COMPUTER PATENT ANNUITIES LIMITED - 3rd party
RE37784 - 2 (4110) 07/14/2006	[REDACTED] 1 (4110) 07/14/2009
GG/5569-088475/ Abandoned	[REDACTED] COKER MOI/005818-9231
[REDACTED] (4110) 01/08/2006 611-69-002US	[REDACTED] (2055) 07/14/2006
DENNEMEYER & COMP - 3rd party	UCSB/1996-35E-1/ Abandoned
[REDACTED] 1 (555) 11/12/2009 CC-024421	
COMPUTER PATENT ANNUITIES LIMITED - 3rd party	

Other Payments for the following patents required a surcharge; therefore, payment was applied with a surcharge and the surcharge amount appears in parenthesis (which decreases the total suspended/unprocessed amount, if applicable).

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*Time Period for Reply

Page 1 of 2
Consolidated (USPTO-07)

12-21-2010 04:56PM FROM-

T-661 P.006/014 F-262

Exhibit B

12-21-2010 04:57PM FROM-

T-661 P.007/014 F-262



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AUG 25 2006

PAYOR NUMBER
22242

P75M

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

DATE PRINTED

DOCKETED

08/16/06

SEP 05 2006

BY

DS

NOTICE OF PATENT EXPIRATION

According to the records of the U.S. Patent and Trademark Office (USPTO), payment of the maintenance fee for the patent(s) listed below has not been received timely prior to the end of the six-month grace period in accordance with 37 CFR 1.362(e). THE PATENT(S) LISTED BELOW HAS THEREFORE EXPIRED AS OF THE END OF THE GRACE PERIOD. 35 U.S.C. 41(b). Notice of the expiration will be published in the USPTO Official Gazette.

Expired patents may be reinstated in accordance with 37 CFR 1.378 if upon petition, the maintenance fee and the surcharge set forth in 37 CFR 1.20(i) are paid, AND the delay in payment of the maintenance fee is shown to the satisfaction of the Director, to have been unavoidable or unintentional. 35 U.S.C. 41(c)(1).

If the Director accepts payment of the maintenance fee and surcharge upon petition under 37 CFR 1.378, the patent shall be considered as not having expired but would be subject to the intervening rights and conditions set forth in 35 U.S.C. 41(c)(2).

For instructions on filing a petition under 37 CFR 1.378 to reinstate an expired patent, you may call the USPTO Contact Center at 800-786-9199 or 571-272-1000.

PATENT NUMBER	U.S. APPLICATION NUMBER	PATENT ISSUE DATE	APPLICATION FILING DATE	EXPIRATION DATE	ATTORNEY DOCKET NUMBER
5779614	08523235	07/14/98	09/05/95	07/14/06	DN1996060-Transferred
RE37784	09614222	07/09/02	07/11/00	07/14/06	5569-6895
5780987	(08888836)	(07/14/98)	(07/07/97)		5569-61708-6895

12-21-2010 04:57PM FROM-

T-661 P.008/014 F-262

Exhibit C

12-21-2010 04:57PM FROM-

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OFFICE OF PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.: RE37784

Confirmation No. 1615

Issued: July 9, 2002 (reissue of U.S.
Patent No. 5,779,614 issued on July 14, 1998)

Applicants: FITZGIBBON et al.

Filed: July 11, 2000

For: BARRIER OPERATOR
HAVING SYSTEM FOR DETECTING
ATTEMPTED FORCED ENTRYCERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this date.

9/23/06
Date

Kenneth H. Samples
Kenneth H. Samples
Registration No. 25,747
Attorney for Applicant(s)

Docket No.: 5569-68895

Customer No.: 22242

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF
MAINTENANCE FEE UNDER 37 C.F.R. § 1.378(c)

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

DOCKETED

SEP 27 2006

BY *[Signature]*

Sir:

This is a petition to accept the unintentionally delayed payment of maintenance fee on the above-identified reissue patent.

The above-identified reissue patent issued July 9, 2002 and is a reissue of earlier issued Patent No. 5,779,614 which issued on July 14, 1998. Accordingly, a maintenance fee of \$2300.00 was due on *January 14, 2006* and on *January 15, 2006* became payable with surcharge until July 14, 2006.

The delay in paying the maintenance fee for this patent was unintentional.

Please charge Deposit Account No. 06-1135 the amount of \$2300.00 in payment of the maintenance fee specified by 37 C.F.R. § 1.20(e). Also please charge Deposit Account No. 06-1135 the amount of \$1640.00 in payment of the surcharge after expiration specified in 37 C.F.R. § 1.20(i)(1).

459802_1

Page 1 of 2

12-21-2010 04:57PM FROM-

T-661 P.010/014 F-262

Patent No. RE37784

Docket No.: 5569-68895

Petition to Accept Unintentionally Delayed Payment of Maintenance Fee

The Commissioner is hereby authorized to charge any additional fees which may be required for maintenance of the above-patent, or credit any overpayment, to the Deposit Account No. 06-1135.

Favorable consideration of this Petition is respectfully requested.

Respectfully submitted,

By: Kenneth H. Samples
Kenneth H. Samples
Registration No. 25,747

Date: September 22, 2006

FITCH, EVEN, TABIN & FLANNERY
Suite 1600
120 South LaSalle
Chicago, Illinois 60603-3406
Telephone: (312) 577-7000
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Pittsburgh, PA 15250-1611

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelop addressed to: "United States Patent and Trademark Office, P.O. Box 371611, Pittsburgh, PA 15250-1611"

on 9/22/09
Signature Kenneth H. Samples

Typed or Printed Name Kenneth H. Samples Registration Number 25,747

Enclosed herewith is the payment of the maintenance fee(s) for the listed patent(s).

1. ☐ A check for the amount of \$ _____ for the full payment of the maintenance fee(s) and any necessary surcharge on the following patents is enclosed.
2. ☒ The Director is hereby authorized to charge \$ 2,300.00 to cover the payment of the fee(s) indicated below to Deposit Account No. 06-1135. A duplicate copy of this form is enclosed.
3. ☒ The Director is hereby authorized to charge any deficiency in the payment of the required fee(s) or credit any overpayment to Deposit Account No. 06-1135. A duplicate copy of this form is enclosed.
4. ☐ Payment by credit card. Form PTO-2038 is attached.

*Information required by 37 CFR 1.366(c) (columns 1 & 4). Information requested under 37 CFR 1.366(d) (columns 2, 3, & 5).

Item	Patent Number*	Maintenance Fee Amount (37 CFR 1.20(e)-(g))	Surcharge Amount (37 CFR 1.20(h))	U.S. Application Number* (e.g., 06/555,555)	Payment Year		
					Column 5		
	Column 1	Column 2	Column 3	Column 4	3.5 yrs	7.5 yrs	11.5 yrs
1	RE37,784	\$2,300.00		09/614,222		x	
2							
3							
4							
5							
6							
Subtotals: Columns 2 & 3		\$2,300.00	\$0.00				
Total Payment		\$2,300.00		<input type="checkbox"/> additional sheets attached for listing additional patents.			

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Respectfully submitted: **

Customer's Signature:

Kenneth H. Samples

Registration Number 25,747

Customer's Name:

FITCH, EVEN, TABIN & FLANNERY

Telephone:

(312) 577-7000

Fax:

(312) 577-7007

Note. All correspondence will be forwarded to the "Fee Address" or to the "Correspondence Address" if no "Fee Address" has been provided. See 37 CFR 1.363.

Payment of small entity fee is appropriate if small entity status still exists, see 37 CFR 1.27(g). To establish small entity status or to change status from small to large entity, a written assertion is required. See 37 CFR 1.27 and 1.33(b).

**WHERE MAINTENANCE FEE PAYMENTS ARE TO BE MADE BY AUTHORIZATION TO CHARGE A DEPOSIT ACCOUNT, BOTH THE NAME AND SIGNATURE OF AN AUTHORIZED USER ARE REQUIRED.

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Inventor: Fitzgibbon et al.
Title: Barrier Operator Having System for Detecting
Attempted Forced Entry
Patent No.: RE37784
Filed: July 11, 2000

File No. 5569.68895
KHS

Date: September 22, 2006

Petition under 37 C.F.R. §1.127(b) to Revive An
Unintentionally Lapsed Patent; Maintenance Fee Transmittal (In duplicate)

Hon. Commissioner of Patents and Trademarks

Sir:

Please acknowledge receipt of the above-identified documents by applying the
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Respectfully,

FITCH, EVEN, TABIN & FLANNERY

Inventor: Fitzgibbon et al.
Title: Barrier Operator Having System for Detecting
Attempted Forced Entry
Patent No.: RE37784
Filed: July 11, 2000

File No. 5569.68895
KHS

Date: September 22, 2006

Petition under 37 C.F.R. §1.127(b) to Revive An
Unintentionally Lapsed Patent; Maintenance Fee Transmittal (in duplicate)

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Exhibit D

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FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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FEB 13 2007

BY: *[Signature]*

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In re Application of
Fitzgibbon et al.
Patent No. RE37784 (5,779,614)
Issued: July 9, 2002 (July 14, 1998)
Attorney Docket No. 5569-68895

This is a decision on the petition under 37 CFR 1.378(c), filed September 26, 2006, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued July 14, 1998. The last day of the grace period for paying the 7.5-year maintenance fee was July 14, 2006. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

The patent file is being forwarded to Files Repository.

Liana Walsh
Liana Walsh
Petitions Examiner
Office of Petitions

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